

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2838

Introduced by Assembly Member Pavley
(Coauthor: Senator Kuehl)

February 24, 2006

An act to *add* and repeal Chapter 10 (commencing with Section 31500) of Division 21 of the Public Resources Code, and to add and repeal Sections 9250.25 and 9250.26 of the Vehicle Code, relating to coastal resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2838, as amended, Pavley. Coastal Environment Motor Vehicle Mitigation Program.

Existing law establishes the State Coastal Conservancy with prescribed powers and responsibilities for implementing a program of agricultural land protection, area restoration, and resource enhancement within the coastal zone, as defined. Under existing law, the conservancy is authorized to provide grants to local public agencies and nonprofit organizations. Existing law authorizes the Department of Motor Vehicles, if requested by a county air pollution control district, air quality management district, or unified regional air pollution control district to collect specified fees upon the registration or renewal of registration of any motor vehicle registered in the district, except as provided, to be used for the reduction of air pollution from motor vehicles, as specified.

This bill would establish the Coastal Environment Motor Vehicle Mitigation Program, which, until January 1, 2020, would authorize the conservancy to request that the Department of Motor Vehicles collect a fee of up to \$6, upon the registration or renewal of registration of every motor vehicle registered in an eligible county that elects to participate in the program, as provided. The bill would create the Coastal Environment Motor Vehicle Mitigation Account in the State Coastal Conservancy Fund of 1984, for the purpose of receiving and disbursing funds derived from those fees collected by the Department of Motor Vehicles. The bill would require that all appropriations of funds deposited in the account only be used for specified program purposes, and be included in a section of the annual Budget Act for each fiscal year for consideration by the Legislature. The bill would prohibit the expenditure of funds derived from the account unless the appropriation is contained in that section of the Budget Act, except for funds continuously appropriated to the Controller for administrative costs.

The bill would authorize the conservancy, and the counties to which a specified percentage of the fee revenues would be transferred, to expend the moneys in the account for specified purposes related to the implementation and funding of projects and grants intended to prevent, reduce, remediate, or mitigate the adverse environmental effects of motor vehicles and their associated facilities and infrastructure, as provided. The bill would prohibit the expenditure of moneys in the account in any county that does not elect to participate in the program. The bill would require the conservancy to consult with each participating county on proposed projects. The bill would also require the conservancy and each county that participates in the program, as applicable, to, at least once every 2 years, each undertake an audit of projects and grants expended in that county or for which that county is responsible, and that are funded, in whole; or in part, by moneys from the account.

This bill would prohibit a county whose board of supervisors is authorized to adopt a fee pursuant to the program from adopting that fee, if the county's local transportation commission has adopted a fee for traffic congestion and environmental mitigation purposes pursuant to other provisions. The bill would also prohibit a county's local transportation commission from adopting a fee for traffic congestion and environmental mitigation purposes, if the county's board of

supervisors has adopted a fee pursuant to the program to be established by this bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The California coast and the San Francisco Bay comprise
4 an extraordinary and environmentally precious area that faces
5 unique environmental challenges as a direct result of population
6 growth and the attendant rise in the number of motor vehicles
7 and their related facilities and infrastructure.

8 (b) Nearly 20 million motor vehicles are currently registered
9 in the counties adjacent to the Pacific Ocean and San Francisco
10 Bay, and an extensive network of streets, highways, bridges, and
11 associated infrastructure has been constructed to accommodate
12 these vehicles.

13 (c) Motor vehicles and their associated facilities and
14 infrastructure, including, but not limited to, highways, streets,
15 roads, and parking lots contribute to a variety of adverse
16 consequences to the inland, coastal, bay, and ocean environment
17 of California's—~~coastal~~ *coast* and San Francisco Bay Area
18 counties, affecting significant state resources, including, but not
19 limited to, the quality of land and water habitat, urban and rural
20 streams, riparian areas and watersheds, recreation, bays,
21 wetlands, beaches, and the ocean, and impact the health of
22 humans, fish, and wildlife.

23 (d) A fee not exceeding six dollars (\$6) should be imposed
24 upon the registration or registration renewal of every motor
25 vehicle registered in a county that elects to participate in the
26 program established pursuant to Chapter 10 (commencing with
27 Section 31500) of Division 21 of the Public Resources Code. The
28 imposition of this fee is fair and reasonable in relation to the
29 adverse environmental impacts imposed by motor vehicles and
30 their associated facilities and infrastructure, given that there is no
31 existing fee that serves the same purposes of that fee;; the cost of
32 remedying these environmental impacts is significantly greater
33 than the amount of revenues that would be raised by that fee;;

1 and substantial revenues from nonmotor vehicle fees and taxes,
2 the sale and issuance of state bonds, the imposition of civil
3 penalties for violations of specified statutes, and private
4 donations are also being expended pursuant to other provisions
5 for these purposes.

6 (e) A fee imposed upon the registration or registration renewal
7 of every motor vehicle registered in an eligible county
8 participating in the program established pursuant to Chapter 10
9 (commencing with Section 31500) of Division 21 of the Public
10 Resources Code would be used to remedy the environmental
11 impacts caused by motor vehicles and their associated facilities
12 and infrastructure, and would not result in the imposition of a tax
13 within the meaning of Article XIII A of the California
14 Constitution because the amount and nature of the fee would
15 have a fair and reasonable relationship to those environmental
16 impacts, and there is a sufficient nexus between the imposition of
17 the fee and the use of revenues from the fee to support the
18 prevention, reduction, remediation, and mitigation of the adverse
19 water quality and other environmental impacts caused by motor
20 vehicles.

21 SEC. 2. Chapter 10 (commencing with Section 31500) is
22 added to Division 21 of the Public Resources Code, to read:

23
24 CHAPTER 10. COASTAL ENVIRONMENT MOTOR VEHICLE
25 MITIGATION PROGRAM
26

27 31500. (a) (1) The Coastal Environment Motor Vehicle
28 Mitigation Account is hereby created in the State Coastal
29 Conservancy Fund of 1984, established pursuant to Section
30 5096.258, for the purposes of receiving and disbursing funds
31 derived from fees collected by the Department of Motor Vehicles
32 pursuant to Section 9250.25 of the Vehicle Code. All
33 appropriations of funds deposited in the Coastal Environment
34 Motor Vehicle Mitigation Account shall only be used for the
35 purposes specified in Section 31510, and shall be included in a
36 section of the annual Budget Act for each fiscal year for
37 consideration by the Legislature. Each such appropriation shall
38 bear the heading "Coastal Environment Motor Vehicle
39 Mitigation Account." No funds derived from the account shall be

1 expended unless the appropriation is contained in that section of
2 the Budget Act.

3 (2) The conservancy ~~shall annually~~ *annually shall* transfer, to
4 each county that has elected to participate in the program
5 pursuant to subdivision (c), 30 percent of the balance of the funds
6 collected from fees imposed pursuant to Section 9250.25 of the
7 Vehicle Code that are deposited into that account that are
8 generated by that participating county. These counties may use
9 these revenues for the purposes, and subject to the conditions,
10 described in Section 31510.

11 (b) The conservancy is not required to undertake any activities
12 pursuant to this chapter until the time that funds generated
13 through this program are appropriated by the Legislature.

14 (c) The conservancy may request that the Department of
15 Motor Vehicles collect a fee of up to six dollars (\$6) upon the
16 registration or renewal of registration of every motor vehicle
17 registered in each eligible county that elects to participate in the
18 program established by this chapter. Pursuant to the procedures
19 set forth in Section 9250.25 of the Vehicle Code, the Department
20 of Motor Vehicles may begin collection only after five or more
21 eligible counties elect to participate. Eligible counties include
22 those counties that are, in whole or in part, within the jurisdiction
23 of the conservancy, including the Counties of Alameda, Contra
24 Costa, Del Norte, Humboldt, Los Angeles, Marin, Mendocino,
25 Monterey, Napa, Orange, San Diego, San Francisco, San Luis
26 Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz,
27 Solano, Sonoma, and Ventura. A county may elect to participate
28 in the program upon the adoption of a resolution by a majority
29 vote of the membership of its board of supervisors. If the amount
30 of fees collected by the Department of Motor Vehicles exceeds
31 the reasonable cost of fulfilling the purposes of this section as
32 determined by the conservancy or any participating county
33 pursuant to an audit conducted in accordance with Section
34 31530, the conservancy shall request a reduced fee level to be
35 collected by the Department of Motor Vehicles in the subsequent
36 fiscal year.

37 31510. (a) The funds deposited in the Coastal Environment
38 Motor Vehicle Mitigation Account may be used only for the
39 purposes of administering and funding projects and grants that
40 prevent, reduce, remediate, or mitigate the adverse environmental

1 effects of motor vehicles and their associated facilities and
2 infrastructure, consistent with Section 2 of Article XIX of the
3 California Constitution. The requirements of Section 31520 shall
4 apply to all funds expended pursuant to this chapter.

5 (b) Up to 5 percent of the funds deposited into the Coastal
6 Environment Motor Vehicle Mitigation Account, and retained by
7 the conservancy, may be used to reimburse the conservancy for
8 administrative costs incurred by the conservancy in
9 implementing and administering this chapter. Not more than 5
10 percent of the funds transferred to each participating county may
11 be used for administrative costs incurred by the county in
12 implementing and administering this chapter.

13 (c) Funds from the Coastal Environment Motor Vehicle
14 Mitigation Account may not be used to fund any part of a project
15 or activity required to satisfy a condition imposed by a permit,
16 license, certificate, or other entitlement that is not issued
17 primarily for the purposes described in this chapter. A permit,
18 license, certificate, or entitlement required for a project funded,
19 in whole or in part, from funds in the account, shall be issued by
20 one or more public agencies, and may include, but is not limited
21 to, the mitigation of significant effects on the environment of a
22 project pursuant to an approved environmental impact report or
23 mitigated negative declaration required pursuant to the California
24 Environmental Quality Act (Division 13 (commencing with
25 Section 21000)). Funds from the account may also be used to
26 support public projects or activities that are included in the
27 implementation measures of a Municipal Storm Water National
28 Pollutant Discharge Elimination System Permit held by a public
29 agency.

30 (d) Priority shall be given to those projects and grants that
31 accomplish the purposes of this chapter through the long-term
32 protection and restoration of natural resources and natural
33 systems affected by motor vehicles and their associated facilities
34 and infrastructure, or the long-term reduction in the level of
35 environmental effects generated by motor vehicles and their
36 associated facilities and infrastructure.

37 (e) The conservancy shall consult with each participating
38 county on proposed projects.

39 (f) To the extent feasible, the services of the California
40 Conservation Corps, certified local conservation corps, as

1 defined in Section 14507.5, and any nonprofit organization that
2 the administering entity of one of the corps determines has the
3 relevant and demonstrated capacity and expertise, shall be
4 utilized to carry out the purposes of this section.

5 (g) Before making funds available for a grant or project
6 pursuant to this section, the conservancy or a participating
7 county, as appropriate, shall make findings that the expenditure
8 of funds is consistent with the requirements of this chapter.

9 31520. (a) Notwithstanding Section 31006, funds in the
10 Coastal Environment Motor Vehicle Mitigation Account shall be
11 expended for projects within those counties that elect to
12 participate in the program pursuant to subdivision (c) of Section
13 31500. A project may be done anywhere in the county consistent
14 with the requirements of this chapter. Funds in the Coastal
15 Environment Motor Vehicle Mitigation Account may not be
16 expended in a county that does not elect to participate in the
17 program pursuant to Section 31500. No funds in the Coastal
18 Environment Motor Vehicle Mitigation Account may be
19 transferred pursuant to Section 2796 of the Fish and Game Code,
20 or used to offset a reduction in any other source of funds for the
21 purposes authorized under this chapter.

22 (b) Funds shall be expended by the conservancy for projects
23 and grants in a manner that, over any two consecutive two-year
24 periods, pursuant to the audit required by Section 31530, benefits
25 to the county are proportional to the revenues collected in each
26 participating county pursuant to Section 9250.25 of the Vehicle
27 Code for vehicles registered in that county.

28 (c) Priority shall be given to projects that directly benefit
29 communities that are disproportionately affected by the adverse
30 environmental effects of motor vehicles and their associated
31 facilities and infrastructure. Grants may be given for this purpose
32 to the California Conservation Corps or nonprofit community
33 organizations, including, but not limited to, local conservation
34 corps that have a demonstrated commitment to natural resource
35 conservation in these communities.

36 31530. The conservancy and each county that participates in
37 the program shall, at least once every two years, each undertake
38 an audit of the program of projects and grants expended in that
39 county or for which that county is responsible, *and* that are
40 funded, in whole or in part, by moneys from the Coastal

1 Environment Motor Vehicle Mitigation Account. The audit shall,
2 at a minimum, evaluate the degree to which resources adversely
3 impacted by motor vehicles and motor vehicle-related facilities
4 and infrastructure have been protected, restored, remediated, or
5 rehabilitated, or to which the impacts on those resources have
6 been reduced, the level of matching funds obtained, and the
7 distribution of funds and projected benefits, by county. The
8 findings of the audits shall be compiled and made available by
9 the conservancy to the Legislature, participating counties, other
10 interested agencies, and the public.

11 31531. This chapter shall remain in effect only until January
12 1, 2020, and as of that date is repealed, unless a later enacted
13 statute, that is enacted before January 1, 2020, deletes or extends
14 that date.

15 SEC. 3. Section 9250.25 is added to the Vehicle Code, to
16 read:

17 9250.25. (a) In addition to any fees specified in this code and
18 the Revenue and Taxation Code, upon the adoption of a
19 resolution by any county board of supervisors, and if requested
20 by the State Coastal Conservancy pursuant to Section 31500 of
21 the Public Resources Code, the department shall collect a fee of
22 up to six dollars (\$6), to be paid upon the registration or renewal
23 of registration of every motor vehicle registered to an address
24 within that county, except those expressly exempted from
25 payment of registration fees. The fees, after deduction of the
26 administrative costs incurred by the department in carrying out
27 this section, shall be paid quarterly to the Controller.

28 (b) (1) A fee collected by the department under this article
29 shall be initiated according to the following schedule, consistent
30 with subdivision (a) of Section 1661:

31 (A) A request to collect the fee received by the department by
32 October 1 shall be invoiced on vehicle registration billing notices
33 mailed on or after January 1 of the following year for vehicles
34 having a registration date of April 1 or later.

35 (B) A request to collect the fee received by the department by
36 April 1 shall be invoiced on vehicle registration billing notices on
37 or after July 1 for vehicles having a registration date of October 1
38 or later.

1 (2) The fee shall be included by the department in any fee
2 statement or notice as part of its designation of county or district
3 fees.

4 (c) After deducting necessary and reasonable costs incurred by
5 the department pursuant to this section ~~up to one-half cent~~
6 ~~(\$0.005) for every registration transaction, including the~~
7 ~~department's initial costs incurred to impose and collect the fee~~
8 ~~in each county, not to exceed 5 percent of the amount collected,~~
9 the department shall remit the balance of the revenues received
10 pursuant to this section to the Controller. Except as provided in
11 subdivision (d), the Controller shall deposit those revenues in the
12 Coastal Environment Motor Vehicle Mitigation Account,
13 established pursuant to paragraph (1) of subdivision (a) of
14 Section 31500 of the Public Resources Code. The department
15 shall, upon remittance, notify the Controller, the State Coastal
16 Conservancy, and any participating county of the total amount
17 remitted from each participating county.

18 *(d) The State Coastal Conservancy shall pay for the initial*
19 *setup and programming costs identified by the department*
20 *through a direct contract with the department. Any direct*
21 *contract payment by the State Coastal Conservancy shall be*
22 *repaid, with restriction on the funds, to the State Coastal*
23 *Conservancy as part of the initial revenues distributed. Regular*
24 *department collection costs shall be in accordance with*
25 *subdivision (c).*

26 ~~(d)~~

27 (e) Notwithstanding Section 13340 of the Government Code,
28 of the ~~money~~ moneys paid to the Controller there is continuously
29 appropriated to the Controller pursuant to subdivision (b),
30 without regard to fiscal years, the amount necessary to pay for
31 the administrative costs of the Controller in administering this
32 section.

33 ~~(e)~~

34 (f) This section shall remain in effect only until January 1,
35 2020, and as of that date is repealed, unless a later enacted
36 statute, that is enacted before January 1, 2020, deletes or extends
37 that date.

38 SEC. 4. Section 9250.26 is added to the Vehicle Code, to
39 read:

1 9250.26. (a) This section shall apply to a county whose board
2 of supervisors is authorized to adopt a fee for environmental
3 remediation purposes pursuant to Section 9250.25 and whose
4 local transportation commission is authorized to adopt a fee for
5 traffic congestion and environmental mitigation purposes
6 pursuant to Section 9250.4.

7 (b) A county board of supervisors shall not adopt a fee
8 pursuant to Section 9250.25, if the county's local transportation
9 commission has adopted a fee pursuant to Section 9250.4.

10 (c) A county's local transportation commission shall not adopt
11 a fee pursuant to Section 9250.4, if the county board of
12 supervisors has adopted a fee pursuant to Section 9250.25.

13 (d) This *section* shall remain in effect only until January 1,
14 2020, and as of that date is repealed, unless a later enacted
15 statute, that is enacted before January 1, 2020, deletes or extends
16 that date.